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10-2872

IAC/S
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2 May 1958

MEMORANDUM FOR: Secretary of State

**SUBJECT : Release of Military Intelligence
to Foreign Governments**

1. The current revision of the NSCID's seems an appropriate time to raise a matter which has concerned me for some time.

2. NSCID 1 authorizes the Director of Central Intelligence to disseminate national and interdepartmental intelligence* on a strictly controlled basis to foreign governments upon his determination with the concurrence of the Intelligence Advisory Committee (IAC) that such action would substantially promote the security of the United States, provided that such dissemination is consistent with existing statutes and Presidential policy.

3. One instrument of Presidential policy which applies to this matter is the Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments (MIC 206/29). This policy stems from the Presidential Directive of February 27, 1946 which directed the Secretaries of State, War and Navy (subsequently the Secretaries of State and Defense) to exercise control of the disclosure of classified military information to foreign governments. Pursuant to the authority thus granted, the State-Defense Military Information Control Committee functions as the agent of the Secretaries of State and Defense for developing, formulating and promulgating policies and procedures governing the disclosure of classified military information, which includes military intelligence.

* Interdepartmental intelligence as herein referred to is construed to mean "interdepartmental intelligence produced within the IAC structure."

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4. Thus between NSCID 1 and the Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments there is an apparent conflict in authority with regard to the releasability of military intelligence when that military intelligence is part of national or interdepartmental intelligence. I believe that it is essential to eliminate any confusion or misinterpretation which may arise therefrom.

5. I recommend therefore that the Secretaries of State and Defense formally acknowledge that their authority to exercise control of the release to foreign governments of classified military information under the Basic Policy Governing the Release of Classified Military Information to Foreign Governments will not be applied to national intelligence and interdepartmental intelligence which may contain military intelligence. The release of such intelligence will be governed by the provisions of NSCID 1 and will be in conformity with criteria adopted by the IAC which will be consistent with the criteria prescribed in the Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments.

6. If you agree with my recommendation I would appreciate a written confirmation. I am attaching a suggested draft memorandum for that purpose as well as a copy of the criteria agreed to by the IAC which will be formally adopted upon receipt of your agreement to the foregoing.

7. The above has the concurrence of the IAC.


ALLEN W. DULLES
Director

Attachments - 2

Identical copy to: Secretary of Defense

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MEMORANDUM FOR : Director of Central Intelligence

SUBJECT : Release of Military Intelligence to
Foreign Governments

1. By directive of 27 February 1946 the President directed the Secretaries of State, War and Navy (subsequently the Secretaries of State and Defense) to exercise control of the release to foreign governments of classified military information, which includes military intelligence, in accordance with the Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments.

2. NSCID 1 authorizes the DCI with the concurrence of the IAC to disseminate to foreign governments national intelligence and interdepartmental intelligence produced within the IAC structure. Such intelligence frequently includes military intelligence.

3. Taking cognizance of NSCID 1 and of the criteria agreed to by the IAC as set forth in the IAC document entitled Criteria and Conditions Governing the Release of Intelligence to Foreign Governments by the IAC, it is understood that the authority of the Secretaries of State and Defense to exercise control of the release of classified military information under the Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments will not be applied to national intelligence and interdepartmental intelligence produced within the IAC structure which may contain military intelligence.

Secretary of State

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Secretary of Defense

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CRITERIA AND CONDITIONS GOVERNING THE RELEASE
OF INTELLIGENCE TO FOREIGN GOVERNMENTS BY THE IAC

1. Pursuant to NSCID 1 the Director of Central Intelligence is authorized to disseminate national intelligence and interdepartmental intelligence produced within the Intelligence Advisory Committee structure on a strictly controlled basis to foreign governments and international bodies upon his determination with the concurrence of the Intelligence Advisory Committee, that such action would substantially promote the security of the United States: Provided, That such dissemination is consistent with existing statutes and Presidential policy including that reflected in international agreements; and provided further that any disclosure of FBI intelligence information shall be cleared with that agency prior to dissemination. The Presidential directive of 25 May 1953 sets forth the requirement for determining "net advantage to the interests of the United States" prior to releasing classified information to foreign governments. The release of AE intelligence is governed by the provisions of the Atomic Energy Act of 1954.

2. The release of military intelligence is governed by "Basic Policy Governing the Disclosure of Classified Military Information to Foreign Governments," as approved by the President on 27 February 1946, and implemented by MIC 206/29. However, the authority of the Secretaries of State and Defense to exercise control of the release of classified military information under this policy will not be applied to the release of national intelligence and interdepartmental intelligence produced within the IAC structure

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which may contain military intelligence. Such release shall be governed by the policy set forth in paragraph 1 and shall be in conformity with the criteria listed below which are consistent with the criteria prescribed in MIC 206/29 (Revised).

3. Within the policy set forth in paragraph 1 the following additional criteria characterize intelligence which should not be released by the IAC to foreign governments:

a. Intelligence which may reveal sources and methods, such as:

i. A source or method of acquisition the revelation of which might jeopardize the operation or existence of a covert intelligence activity;

ii. A source or method of acquisition the revelation of which might identify and thereby jeopardize the safety, welfare or reputation of any individual connected therewith, or preclude the future use of such source or individual in the collection of intelligence or other activities;

iii. A source or method of acquisition which the recipient nation might use for propaganda purposes against the United States, or to impede a United States intelligence collection effort.

b. Intelligence on the recipient country or its possessions, dependencies or dominions, except that based upon information obtained with the consent of the recipient country, or from open sources.

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c. Intelligence which is overtly obtained from another foreign government, or as the result of a combined effort with another foreign government, except when the intelligence is received without restrictions as to its further release to third nations.

d. Intelligence, the possession or use of which by the recipient nation would be likely to be harmful, derogatory or prejudicial to any United States Government interest.

e. Intelligence, the release of which to foreign governments would be contrary to United States federal legislation or to agreements or treaties between the United States and foreign nations.

f. Intelligence, the release of which would be likely to be detrimental to the foreign policy of the U.S.

4. In addition to the above, release of intelligence will be effected only upon the satisfaction of the following specific conditions:

a. The recipient government will not release the information to a third government without the approval of the United States. For the purposes of this proviso, the United Kingdom and each of the Commonwealth Nations are considered to be separate nations;

b. The recipient government will afford to the information substantially the same degree of security protection afforded to it by the United States;

c. The recipient government will not use the information for other than national security purposes.

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5. The criteria and conditions for the release of intelligence set forth above may be modified from time to time by the IAC upon the recommendation of any member thereof. In this connection, consideration will be given by the IAC to the criteria and conditions which the State-Defense Military Information Control Committee may adopt, in order to assure that the criteria and conditions of the IAC are consistent therewith.

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Remarks:			
<p>1. The attached identical letters to the Secretary of State and Secretary of Defense (together with the draft memorandum of reply to the DCI and the <u>Criteria and Conditions Governing the Release of Intelligence to Foreign Governments by the IAC</u>) were approved in this form by the IAC on 15 April.</p> <p>2. They are forwarded for signature by the Director.</p>			
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<div style="border: 1px solid black; padding: 2px;"> <div style="border: 1px solid black; width: 100px; height: 20px; margin-bottom: 5px;"></div> Secretary, IAC </div>			17 Apr
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